



UNITED STATES PATENT AND TRADEMARK OFFICE

Handwritten mark

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,274	02/02/2001	Mireille Lamberty	A33595-PCT USA	3555

21003 7590 02/23/2005

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

LIU, SAMUEL W

ART UNIT PAPER NUMBER

1653

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental
Notice of Allowability**

Application No.

09/673,274

Applicant(s)

LAMBERTY ET AL.

Examiner

Samuel W Liu

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to _____.
2. The allowed claim(s) is/are 1,3,4,8-19,22,46,47,51-53 and 55.
3. The drawings filed on 12-10-2000 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>2-15-05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

This Office action provides the examiner amendment to the specification in accordance with the notice of allowability mailed 29 November 2004.

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Peter Shen on February 15, 2005. Applicants agree to the examiner proposed amendment to the specification in this application (see below).

Amendments to the specification:

On page 3, line 5, before paragraph [0008] (see the amended specification filed 2/6/04), add the following descriptions of the drawings (Figures 1-6):

Brief description of the drawings

Figure 1: show a polynucleotide consisting of six oligonucleotides (1-6) which encodes a polypeptide of 44 amino acids of heliomicine.

Figure 2: show a schematic structure of plasmid pRTL-2GUS which comprises duplicated CaMV 35S promoter, tobacco etch virus (TEV) 5' untranslated sequence, E.coli β -glucuronidase gene and a CaMV 35S RNA polyadenylation site.

Figure 3: show a cassette for expressing a PR-1 α -heliomicine fusion protein in the pRTL-2GUS plasmid.

Figure 4: show a schematic structure of multiple cloning site for facilitating the induction of the cassettes for expression using an *Agrobacterium tumefaciens* vector.

Art Unit: 1653

Figure 5: show a schematic structure of pRPA-RD-174 wherein "nos" represents the *Agrobacterium tumefaciens* nopaline synthase polyadenylation site; "NPT" stands for the *E.coli* Tn5 transposon neomycin phosphotransferase gene; "NPS pro" represents the *Agrobacterium tumefaciens* nopaline synthase promoter; "35S pro" represents the 35S promoter from cauliflower mosaic virus; "BRX" stands for the nitralase gene from *K. ozaenae*; and, "RB" and "LB" represent right and left borders, respectively, of the sequence of an *Agrobacterium tumefaciens* Ti plasmid.

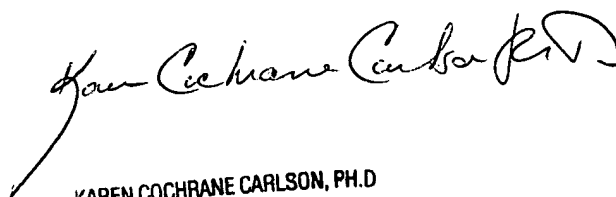
Figure 6: show a schematic structure of pRPA-RD-184 wherein the terms "nos", "NPT", "NPS pro", "35S pro", "BRX", "RB" and "LB" have the same meaning as in Figure 5.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jon Weber, can be reached at (571) 272-0925.



Samuel W. Liu, Ph.D.

February 5, 2005



KAREN COCHRANE CARLSON, PH.D.
PRIMARY EXAMINER